



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the combined fifth and sixth periodic reports of the Philippines\*

1. The Committee on Economic, Social and Cultural Rights considered the combined fifth and sixth periodic reports of the Philippines on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/PHL/5-6) at its 65th and 66th meetings (E/C.12/2016/SR.65 and 66), held on 28 and 29 September 2016, and adopted the following concluding observations at its 78th meeting, held on 7 October 2016.

#### A. Introduction

2. The Committee welcomes the submission of the combined fifth and sixth periodic reports of the State party and the supplementary information provided in the replies to the list of issues (E/C.12/PHL/Q/5-6/Add.1). The Committee appreciates the constructive dialogue held with the State party's high-level interministerial delegation.

#### B. Positive aspects

3. The Committee welcomes the adoption by the State party of:

- (a) The Responsible Parenthood and Reproductive Health Act of 2012 (No. 10354);
- (b) The Anti-Enforced Disappearances Act (No. 10353), in 2012;
- (c) The Act amending the Migrant Workers and Overseas Filipinos Act of 1995 (No. 10022), in 2010;
- (d) The Magna Carta of Women (No. 9710), in 2009.

4. The Committee also welcomes the ratification by the State party of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2012.

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\* Adopted by the Committee at its fifty-ninth session (19 September-7 October 2016).



## C. Principal subjects of concern and recommendations

### Domestic application of the Covenant

5. The Committee notes with concern that the Bill of Rights contained in the Constitution does not fully or explicitly recognize economic, social and cultural rights. While noting some judgments of the Supreme Court in which reference was made to the Covenant, the Committee regrets that the direct application of the Covenant by domestic courts, particularly lower courts, remains rare.

6. **The Committee recommends that the State party take all appropriate measures to ensure the protection of economic, social and cultural rights at the constitutional level, to institutionalize writs of *amparo* concerning the Covenant rights, and to ensure that those rights are protected by the domestic courts at all levels. It also recommends that the State party enhance training for judges, lawyers and public officials on the Covenant. The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

### Data collection

7. The Committee is concerned at the lack of reliable data, including in the national census, particularly data relating to indigenous peoples, persons with disabilities and people living in poverty.

8. **The Committee recommends that the State party take all measures necessary to review and improve its data-collection system, including its national census, with a view to collecting comprehensive, reliable and disaggregated data. That will enable the assessment of the level of enjoyment of Covenant rights, particularly by disadvantaged and marginalized individuals and groups, including indigenous peoples, persons with disabilities and people living in poverty. Such data are required in order to track progress in the realization of those rights and to design effective and targeted measures to increase enjoyment of them.**

### Commission on Human Rights of the Philippines

9. The Committee appreciates the efforts of the Commission on Human Rights of the Philippines to promote and protect human rights. It is concerned, however, that the Commission is not explicitly mandated to deal with economic, social and cultural rights and is not provided with sufficient financial and human resources.

10. **The Committee recommends that the State party take all measures necessary to ensure that the Commission is explicitly provided with the mandate to deal with economic, social and cultural rights and that it is allocated sufficient resources, with the autonomy to plan and manage its own budget. The Committee urges the State party to expedite the discussion and adoption of the Commission on Human Rights Charter (Senate bill No. 2818 on an act strengthening the functional and structural organization of the Commission on Human Rights, and for other purposes) to ensure full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

### Human rights defenders

11. The Committee is deeply concerned at the continuing cases of harassment, disappearance, threats of killing and killing of human rights defenders, despite the adoption in 2012 of Administrative Order No. 35 to address extrajudicial killings. It is also concerned at the low level of investigation, prosecution and conviction in such cases.

12. **The Committee urges the State party to take all measures necessary to protect human rights defenders, including trade union activists, defenders of the urban poor, indigenous activists and peasant activists, from killing and all forms of violence. It also urges the State party to ensure a safe and favourable environment supportive of those defenders' work to promote and protect economic, social and cultural rights. It recommends that the State party step up its efforts to promptly and thoroughly investigate all reported cases of harassment, disappearance and killing of human rights defenders and bring the perpetrators to justice.**

#### **Indigenous peoples**

13. While noting the efforts made by the State party to protect the rights of indigenous peoples, the Committee is concerned at:

(a) The conflicts between the protection of indigenous peoples' ancestral lands under sections 5 and 56 of the 1997 Indigenous Peoples' Rights Act and the provisions of the 1995 Mining Act and the 1974 Forestry Reform Code of the Philippines, as well as the delay in adopting the National Land Use Bill;

(b) The unsatisfactory implementation of the Indigenous Peoples' Rights Act as regards the demarcation and registration of indigenous peoples' territories;

(c) The limited mandate and capacity of the National Commission on Indigenous Peoples and the doubts that have been expressed concerning its ability to function as a truly independent body for the promotion and protection of the rights of indigenous cultural communities and indigenous peoples;

(d) The failure of the State party to uphold the right to free, prior and informed consent of indigenous peoples for any change to the use of their lands and territories and to implement the mandatory representation of indigenous peoples in local decision-making bodies;

(e) The displacement of indigenous peoples, particularly those in Mindanao, owing to the armed conflict and intertribal conflicts, as well as extractive and logging operations;

(f) The limited access of indigenous peoples to health care, education and other basic services.

14. **The Committee recommends that the State party:**

(a) **Fully implement the 1997 Indigenous Peoples' Rights Act to ensure that, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, indigenous peoples' rights to their lands, territories and resources are fully recognized and protected and that their free, prior and informed consent is obtained in respect of the adoption of any legislation, policy or project affecting their lands or territories and other resources;**

(b) **Prioritize the adoption of the National Land Use Bill and ratify the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169);**

(c) **Strengthen the mandate and the capacity of the National Commission on Indigenous Peoples and take all measures necessary to enhance its independence and effectiveness, with a view to restoring its credibility among indigenous peoples;**

(d) **Take the steps necessary to ensure the registration of indigenous lands, including through improving the collective land title claim process;**

(e) **Ensure that the free, prior and informed consent of the indigenous peoples concerned is obtained before granting licences to private companies; and that indigenous peoples are represented by their own chosen representatives on local decision-making bodies, such as local mining boards and development units;**

(f) **Adopt appropriate measures to mitigate the impact of armed conflicts, including intertribal conflicts, and natural disasters on indigenous peoples;**

(g) **Take all measures necessary to ensure the full access of indigenous peoples to health care, education and other basic services.**

#### **Maximum available resources**

15. While noting the continuing economic growth of the State party in recent years, the Committee is concerned at the overall low level of public expenditure on social services, including housing, social security, health care and education, despite increases in some areas (art. 2 (1)).

16. **The Committee recommends that the State party intensify its efforts to increase public spending on social services, particularly in the areas of housing, social security, health care and education, and take effective measures to secure a sufficient level of public funding in those areas.**

#### **Corruption**

17. While noting the efforts made by the State party to combat corruption, including the adoption of Executive Order No. 2 of 2016 on the right to information, the adoption of the Sandiganbayan Reform Act of 2015 and the important role played in that regard by the Philippine Ombudsman in the enforcement of the Anti-Graft and Corrupt Practices Act, the Committee is concerned that corruption remains pervasive in all branches of Government (art. 2 (1)).

18. **The Committee recommends that the State party:**

(a) **Enhance transparency, accountability and participation in the conduct of public affairs through the full implementation of the Good Governance and Anti-Corruption Plan for 2012-2016 and beyond;**

(b) **Take steps to protect those who report cases of corruption and to effectively combat impunity through the strict application of anti-corruption laws, including Acts No. 3019 of 1960, No. 10167 of 2012 and No. 10365 of 2013;**

(c) **Strengthen mechanisms and procedures entrusted with the task of combating corruption;**

(d) **Strengthen the responsiveness of the judiciary to corruption and ensure the effective protection of victims of corruption, their lawyers, anti-corruption activists, whistle-blowers and witnesses.**

#### **Non-discrimination**

19. The Committee is concerned at the delay in adopting a comprehensive anti-discrimination law, as proposed in Senate bill No. 2475, which has been awaiting adoption since 2014. It is also concerned at the discriminatory provisions in the existing laws, including section 29 (a) of the Immigration Act and sections 269 and 272 (b) of the Labour Code, as well as at the discriminatory application of law, such as article 200 of the Revised Penal Code, against lesbian, gay, bisexual, transgender and intersex persons (art. 2 (2)).

20. **The Committee recommends that the State party review its legislation with a view to removing all discriminatory provisions and take the measures necessary to ensure that laws are not applied in a discriminatory manner. It urges the State party, in line with the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, to expedite the adoption of a comprehensive anti-discrimination law prohibiting all direct, indirect and multiple forms of discrimination on any grounds and providing for effective remedies for victims of discrimination, including within judicial and administrative proceedings.**

#### **Persons with disabilities**

21. The Committee notes that, according to the 2010 national census, persons with disabilities comprise only 1.57 per cent of the total population, which is very low in comparison with the World Health Organization international average of 15 per cent. The Committee is concerned that persons with disabilities continue to face discrimination in their enjoyment of the Covenant rights owing to a lack of reasonable accommodation and personal assistance services, and that the accessibility provided for in domestic laws is limited to physical accessibility. Public spending for persons with disabilities appears insufficient and that situation is bound to worsen with the removal from the most recent budget, under the General Appropriations Act 2016, of the 1 per cent budget allocation of all governmental agencies for disability-related programmes and services, granted under Presidential Proclamation No. 240 of 2004 (art. 2 (2)).

22. **The Committee recommends that the State party take all measures necessary to review its data collection on disability and reformulate disability-related policies and programmes accordingly. It also recommends that the State party review the Magna Carta for Persons with Disabilities (Act No. 7277) and other existing laws on disability, expand the provision of reasonable accommodation and provide personal assistance services, including sign language and interpretation, to persons with disabilities. It further recommends that the State party ensure that a sufficient level of public funding is allocated to disability-related programmes and services, including through reintroducing the budget set aside for disability-related programmes and services introduced under Presidential Proclamation No. 240 of 2004.**

#### **Equality between men and women**

23. The Committee is concerned that, in spite of the adoption of the Magna Carta of Women and educational achievements by girls and women, there continues to be a large gender disparity in labour market participation, mainly owing to persistent gender role stereotypes and the unequal sharing of family responsibilities between women and men. The Committee is also concerned at the large gender pay gap owing to the predominance of women in low-level and low-paid jobs (arts. 3, 6 and 7).

24. **The Committee recommends that the State party promote the wide dissemination and implementation of the Magna Carta of Women so that women, including indigenous and Muslim women, can take full advantage of the opportunities it provides, including maternity leave. It also recommends that the State party take all measures necessary to increase the level of participation of women in the labour market, including through the promotion of awareness-raising campaigns and good practices to change gender role stereotypes, as well as through an extension of the public network of childcare services and other services for dependent children and other dependents. It further recommends that the State party combat professional segregation by enhancing vocational training programmes for women and take effective measures to close the pay gap between men and women.**

### **Unemployment and underemployment**

25. The Committee is concerned that although the State party's data-collection system does not allow for a clear assessment of the levels of labour market participation, unemployment and underemployment, all the available information indicates that the unemployment rate is high, particularly among young people. It is also concerned that, despite the provision for reasonable accommodation in relation to employment in the Magna Carta for Persons with Disabilities, there is a high level of unemployment among persons with disabilities. It is further concerned at the high incidence of underemployment in the labour market mainly owing to the shortage of decent job opportunities and a mismatch between supply and demand (art. 6).

**26. The Committee recommends that, in order to reduce unemployment, particularly among young people and persons with disabilities, and to address the high level of underemployment, the State party intensify its efforts to:**

(a) **Improve its data-collection system on employment, underemployment and unemployment;**

(b) **Continue to improve vocational training and the educational curriculum and programmes, particularly for young people and underemployed workers, tailoring them to their experience and level of job skills to meet current labour market demands;**

(c) **Continue to develop effective school-to-work transition programmes for young graduates and adopt other youth employment policies to respond to the fast-growing youth population;**

(d) **Fully implement the measures provided for in the Magna Carta for Persons with Disabilities to promote the employment of persons with disabilities;**

(e) **Ensure that the current Human Resources Development Road Map and Philippine Labour and Employment Plan are effectively implemented, and design the 2016-2022 road map and plan based on an assessment of the implementation of the current versions.**

### **Right to just and favourable conditions of work**

27. The Committee is concerned that about 75 per cent of the workforce, for the most part women, are working in the informal economy or in non-standard forms of employment without legal protection, support and safeguards. It is particularly concerned that the contracting out of workers for periods of five months, a practice called "contractualization" that was legitimized by the 1989 "Herrera Law" (Act No. 6715) under the so-called "endo" scheme, is rampant across all economic sectors in the State party, increasing the number of workers under short-term contracts and with lower levels of protection. The Committee is also concerned about the precarious working conditions in sweatshops, which are often excluded and hidden from labour inspections, where workers, mostly women, are subjected to exploitation with pay below the minimum wage, long working hours, and unsafe and unhealthy working conditions, and where they are exposed to occupational accidents, abuse and extra demands (arts. 6 and 7).

**28. The Committee recommends that the State party:**

(a) **Increase employment opportunities in the formal economy and facilitate the transition of workers and economic units from the informal to the formal economy;**

(b) **Ensure, in accordance with the provisions in paragraph 47 (d) of general comment No. 23 (2016) on the right to just and favourable conditions of work, and paragraph 9 of ILO Recommendation No. 204 concerning the Transition from the**

**Informal to the Formal Economy (2015), that workers in the informal economy and non-standard forms of employment are covered by labour legislation and entitled to adequate social protection, and expedite the adoption of the Magna Carta for Workers in the Informal Economy;**

(c) **Put an end to the “endo” scheme and strengthen the monitoring of employers regarding the abusive practice of “casualization”;**

(d) **Ensure that labour legislation is strictly applied to sweatshop workers and that all workers enjoy safe and healthy working conditions and are protected from occupational accidents, exploitation and abuse;**

(e) **Strengthen the mandate and resources of labour inspectorates to enable them to effectively monitor working conditions in all work settings.**

29. The Committee notes that the Wage Rationalization Act of 1989 abolished the national minimum wage and transferred the wage fixing mandate from the Philippine Congress to a tripartite body. The Committee is concerned at the lack of genuine and effective participation of workers in the wage-setting process. It is also concerned that the two-tier wage system bases the so-called “floor wage” on the poverty threshold, which is much lower than the minimum wages, and that the level of wages set through the system is generally low, particularly in the agricultural and fishery sectors. It is further concerned that the minimum wages cover only 13 per cent of the workforce and that a number of sectors are exempt from minimum wages. In addition, the Committee is concerned at the insufficient level of the minimum wages, the large number of complaints concerning non-compliance with the minimum wages, and the lenient and non-dissuasive punishment given to employers found to be in breach of the minimum wage rules (arts. 7 and 8).

30. **Drawing the State party’s attention to the Committee’s general comment No. 23 (2016) on the right to just and favourable conditions of work, the Committee recommends that the State party:**

(a) **Review the Wage Rationalization Act of 1989 with a view to reinstating the national minimum wage;**

(b) **Take all measures necessary to ensure the genuine and effective participation of workers in tripartite bodies;**

(c) **Take the steps necessary to ensure that all workers are covered by minimum wages, that minimum wages are regularly adjusted to the cost of living, and to reinforce employers’ compliance with the minimum wages through labour inspections and complaint mechanisms, ensuring that those who fail to pay minimum wages are sanctioned with penalties commensurate with the offence;**

(d) **Review the two-tiered wage system with a view to ensuring that the floor wage is no lower than the minimum wage, which should ensure that workers and their families have an adequate standard of living.**

#### **Right to social security**

31. The Committee is concerned that, despite the increase in recent years, the level of public spending on social protection remains low. It is also concerned that the Social Pension for Indigent Senior Citizens covers only 28.5 per cent of the statutory pension age population and that the amount of the benefit is insufficient (500 pesos or about US\$ 10 per month) to ensure an adequate standard of living for the beneficiaries and their families. It is further concerned at the absence of unemployment benefits (arts. 9 and 11).

32. **The Committee recommends that the State party:**

- (a) **Increase the budget allocation for social protection;**
- (b) **Expand the coverage of the Social Pension for Indigent Senior Citizens to all those of statutory pension age, increase the amount of the benefit and regularly review and adjust it with a view to ensuring an adequate standard of living for the beneficiaries and their families;**
- (c) **Establish unemployment benefits;**
- (d) **Establish a nationally defined social protection floor with a view to providing a basic set of universal essential social guarantees, taking into account the Committee's general comment No. 19 (2007) on the right to social security, as well as its statement on social protection floors: an essential element of the right to social security and of the sustainable development goals (2015).**

#### **Protection of family, mothers and children**

33. The Committee reiterates its concern that certain provisions of the Revised Penal Code and the Code of Muslim Personal Laws are in violation of the Covenant and that they are in conflict with the Magna Carta of Women, particularly concerning early marriage, polygamy and divorce. It is also concerned at the absence of legislation providing for divorce and the delay in adopting legislation to amend the Family Code (arts. 3 and 10).

34. **The Committee recommends that the State party review the Revised Penal Code and the Code of Muslim Personal Laws with a view to prohibiting early marriage and polygamy and to bringing the two Codes in line with the Magna Carta of Women and international human rights standards. It also recommends that the State party expedite the adoption of legislation that provides for divorce.**

#### **Birth registration**

35. While welcoming Presidential Proclamation No. 1106 of 2015, the Committee remains concerned at the low level of birth registration among indigenous children, Muslim children and children of overseas Filipino workers, which has a direct impact on their enjoyment of economic, social and cultural rights (art. 10).

36. **The Committee recommends that the State party take all steps necessary to ensure that all children, including indigenous children, Muslim children and children of overseas Filipino workers, are registered, including through the implementation of Presidential Proclamation No. 1106 of 2015 and through diplomatic relations with countries of destination of overseas Filipino workers.**

#### **Economic exploitation of children**

37. The Committee reiterates its concerns that an estimated 1.5 million children between the ages of 5 and 14 are engaged in child labour and that half of them are working in hazardous or dangerous conditions and are exposed to various forms of sexual and economic exploitation. It is also concerned that most of those children are out of school and are engaged in the mining and agricultural sectors, putting their lives and health at great risk (arts. 7, 10, 13 and 14).

38. **The Committee recommends that the State party:**

- (a) **Strengthen its national legislation prohibiting child labour and its enforcement including though enhancing labour inspections on child labour;**
- (b) **Ensure that persons who make use of child labour are prosecuted and punished;**

(c) **Adopt all appropriate measures to facilitate the recovery of children from child labour and to ensure that they are given access to educational opportunities;**

(d) **Undertake a national survey on the nature and extent of child labour.**

#### **Violence against women and girls**

39. The Committee is concerned that, despite progress in recent years, domestic violence against women remains prevalent in the State party and continues to be underreported owing to stigmatization and discrimination against victims. It is also concerned at the gaps in the legislation: the Anti-Violence against Women and Their Children Act of 2004 (Act No. 9262) has limited scope and the Anti-Rape Law of 1997 (Act No. 8353) limits statutory rape to cases where the victim is under the age of 12. Women and girls with disabilities are particularly vulnerable to such violence and are not provided with the necessary support (arts. 3 and 10).

40. **The Committee recommends that the State party expedite the amendment of the Anti-Violence against Women and Their Children Act and of the Anti-Rape Law. It also recommends that the State party take effective measures to encourage the reporting of domestic violence, to ensure that all reported cases are promptly and thoroughly investigated, that the perpetrators are punished with penalties commensurate with the gravity of the offences and that victims receive adequate support, including temporary shelter, legal assistance and psychological treatment. It further recommends that the State party pay particular attention to women and girls with disabilities who experience such violence and take into account their specific needs as regards their access to justice throughout the judicial process and their use of shelters.**

#### **Trafficking in human beings**

41. The Committee is concerned at:

(a) The persistently high incidence of trafficking in women and children, which is exacerbated by natural disasters and armed conflicts;

(b) The very small number of prosecutions and convictions of traffickers;

(c) The insufficient level of specialized services, including health services and long-term care provided to victims of trafficking;

(d) The insufficient level of understanding of trafficking and the anti-trafficking legal framework among law enforcement officials, particularly at the local level;

(e) Allegations of complicity of law enforcement officials in the cases of trafficking (art 10).

42. **The Committee recommends that the State party:**

(a) **Address the root causes of and women's vulnerability to trafficking, in particular in the context of displacements related to natural disasters or armed conflict;**

(b) **Ensure that all acts of trafficking are effectively investigated and sanctioned;**

(c) **Provide shelters to victims of trafficking and ensure victims' access to assistance, recovery and reintegration programmes;**

- (d) **Enhance law enforcement officials' understanding of the issues relating to trafficking and the anti-trafficking legal framework;**
- (e) **Take all measures necessary to eradicate the complicity of law enforcement officials in human trafficking and the impunity afforded to those involved.**

#### **Poverty**

43. The Committee remains concerned at the high number of persons living in poverty and the significant regional disparities, despite the economic growth and the efforts made by the State party to eradicate poverty. While welcoming the expansion of the Pantawid Pamilyang Pilipino Programme (the conditional cash transfer programme) and its gender-sensitive dimension, the Committee is also concerned at the insufficient level of coverage of the Programme owing to the ineffective targeting mechanism and strict eligibility criteria, which cannot always be met. The Committee notes that the level of benefits remains insufficient to ensure an adequate standard of living, and that the specific needs of families with persons with disabilities are not taken into account (arts. 9 and 11).

44. **The Committee recommends that the State party step up its efforts to eradicate poverty and in particular:**

- (a) **Take all steps necessary to ensure that the Pantawid Pamilyang Pilipino Programme is rights-based, clearly inform potential beneficiaries about their right to claim benefits and to challenge instances of exclusion, and expand its coverage to all persons living in poverty, including through improving the National Household Targeting System for Poverty Reduction with a view to correctly identifying and reaching out to all persons living in poverty;**

- (b) **Increase the amount of the benefits to ensure an adequate standard of living to the beneficiaries;**

- (c) **Provide for increased benefits for persons with disabilities so as to enable them to enjoy the Covenant rights;**

- (d) **Take all measures necessary to make sure that beneficiaries are able to fulfil the criteria required under the Programme, including by increasing access to schools, health services and other facilities and providing transportation.**

45. The Committee is concerned at the high incidence of absolute poverty among small-scale fishers and landless farmers. It is particularly concerned that the livelihood of small-scale fishers has been under threat owing to declining fish stocks in coastal areas as a result of climate change and the encroachment of commercial fishing vessels on fishing zones. It does, however, welcome the amendments to the Fisheries Code of 1998 under Act No. 10654 of 2015, which should bring about improvements in that regard by requiring that preference be given to users in the local communities adjacent or nearest to municipal waters. The Committee is concerned that land-grabbing continues and that the Comprehensive Agrarian Reform Program Extension with Reforms has now been phased out, despite having been only partly implemented, leaving many farmers landless. Moreover, women farmers were a small minority among the beneficiaries of the agrarian reform owing to their subordinate status within the household (arts. 10 and 11).

46. **The Committee urges the State party to take effective measures to address the challenges facing small-scale fishers and landless farmers in securing their livelihoods. The Committee recommends that the State party take all measures necessary to delineate municipal waters and coastal zoning and to improve fishers' income, guided by the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication. It also recommends that the State**

party take the measures necessary to stop land-grabbing, to facilitate the distribution of land to landless farmers, including by further extending the agrarian reform process launched with the Comprehensive Agrarian Reform Law of 1988, and to ensure that women are not discriminated against in land distribution.

#### **Right to adequate food and nutrition**

47. While welcoming the Supplementary Feeding Programme and other measures aimed at reducing malnutrition in the State party, the Committee is concerned that between 13.7 and 15.6 million persons are still undernourished in the Philippines, most of whom live in rural, conflict-affected and disaster-affected areas. Moreover, almost one fifth of children under 5 years of age are underweight and more than 30 per cent suffer from stunting. Almost one quarter of pregnant women, lactating mothers and infants suffer from micronutrient deficiencies. The number of persons who are overweight and obese is increasing (arts. 11 and 12).

48. **The Committee recommends that the State party take the steps necessary to address persistent hunger and malnutrition, particularly the critical nutritional needs of children, pregnant women and lactating mothers. Referring to its general comment No. 12 (1999) on the right to adequate food, it also recommends that the State party adopt the legislative framework protecting the right to adequate food and nutrition and enact the bill providing a framework for the right to adequate food, known as the “zero hunger bill”. It further recommends that the State party fully implement the Philippine Plan of Action for Nutrition for 2011-2016 and develop a national food and nutrition security strategy, taking into account the 2004 Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, agreed on by the Member States of the Food and Agriculture Organization of the United Nations.**

#### **Right to housing**

49. The Committee remains concerned that public funding allocated to social housing remains low and that the provision of social housing remains insufficient. Persons with disabilities experience particular difficulties in gaining access to social housing. The Committee is also concerned at the large proportion of the population living in informal settlements in poor living conditions with limited access to basic services and infrastructure, health care and education and under constant threat of eviction. It is further concerned at the substandard living conditions in collective bunkhouses for persons who are internally displaced as a result of natural disasters and armed conflict. Furthermore, it is concerned that the Urban Development and Housing Act legalizes forced evictions and demolitions and that a large number of forced evictions are carried out in the name of urban development. In addition, the Committee is concerned at the inadequate measures taken to provide appropriate relocation sites or adequate compensation to families who are forcibly evicted, who currently have to live in substandard living conditions without infrastructure and basic amenities, health care, education or transport facilities (art. 11).

50. **The Committee recommends that the State party take all the measures necessary to increase the public funding allocated to social housing and to provide affordable social housing units for disadvantaged and marginalized individuals and families, including persons with disabilities, and to improve living conditions in informal settlements and collective bunkhouses for internally displaced persons. The Committee urges the State party to amend the Urban Development and Housing Act and to adopt a legal framework establishing procedures to be followed in the case of evictions in line with international standards, including the Committee’s general comment No. 7 (1997) on forced evictions. The Committee requests the State party to**

indicate, in its next periodic report, the scope and the extent of homelessness in the State party, using data disaggregated by gender, race and other relevant criteria, and to establish an effective means of monitoring the progress achieved in reducing the number of homeless persons.

#### **Sexual and reproductive health**

51. The Committee is concerned that abortion is criminalized under any circumstance in the State party. That results in a growing number of unsafe abortions and very high maternal mortality rates, including among adolescents. The Committee is also concerned at the amendment to the Penal Code that provides for increased penalties for those practising abortions. It is further concerned at the high level of unwanted pregnancies and at the limited access to reproductive health information and services, including contraceptives, particularly among adolescents and women in rural areas, despite the Responsible Parenthood and Reproductive Health Act of 2012. Those limitations have been exacerbated by judicial decisions and local laws such as Executive Orders Nos. 003 (2000) and 030 (2011) of Manila City and Executive Order No. 3 (2015) of Sorsogon City, and by the delisting of emergency contraception (arts. 3 and 12).

52. **The Committee recommends that the State party take all measures necessary to reduce the incidence of unsafe abortion and maternal mortality, including by amending its legislation on the prohibition of abortion to legalize abortion in certain circumstances. It also recommends that the State party improve access to sexual and reproductive health information and services, including contraceptives, and relist emergency contraceptives. The judicial and executive orders adopted in that regard should be lifted, since they are incompatible with the requirements of the Covenant and other international obligations undertaken by the State party. The Committee further recommends that the State party expand and strengthen comprehensive, age-appropriate sexual and reproductive health education for both sexes, taking note of the recommendations issued by the Committee on the Elimination of Discrimination against Women in 2015 in its inquiry report (CEDAW/C/OP.8/PHL/1, paras. 49-52). The Committee draws the attention of the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.**

#### **Policy towards drug users**

53. The Committee is deeply concerned that declarations made by high-ranking officials in the context of the so-called “war on drugs” may be seen as encouraging and legitimizing violence against drug users, including extrajudicial killings. Indeed, the number of extrajudicial killings of drug suspects has drastically increased in recent months and a large number of people have been arrested and detained in already overcrowded prisons. Poor neighbourhoods and individuals have been disproportionately affected in that process. The Committee is also concerned that the criminalization of the possession and use of drugs hinders persons in need of treatment from receiving such treatment, and the Committee regrets the shortage of treatment centres that provide evidence-based health services, such as opioid substitution therapies. Moreover, the Committee is concerned at the high prevalence of HIV/AIDS and hepatitis C among people who inject drugs (art. 12).

54. **The Committee urges the State party to put a stop to extrajudicial killings and all forms of violence against drug users; to promptly and thoroughly investigate all reported cases and punish the perpetrators with sanctions commensurate with the gravity of the crime; and to take all measures necessary to ensure that the fight against drug trafficking does not have a discriminatory impact on the poor and marginalized. The Committee recommends that the State party reconsider the criminalization of the possession and use of drugs; adopt a right-to-health approach to**

**drug abuse with harm reduction strategies, such as syringe exchange programmes; and increase the availability of treatment services that are evidence-based and respectful of the rights of drug users.**

#### **Right to education**

55. While welcoming the important step achieved by the Enhanced Basic Education Act of 2013, the Committee is concerned at:

(a) The insufficient level of resources allocated by the State party to financing school facilities and qualified teachers, and to ensuring the effective enjoyment of the right to free primary and secondary education for all;

(b) The proliferation of so-called “low-cost private schools” at the primary and secondary levels owing to inadequacies in the public school system, which have extended to the senior high school level through the Senior High School Voucher Programme;

(c) The low quality of education provided by those private schools, the top-up fees to cover the full cost of private education imposed on parents, and the lack of State regulation of those schools, which have led to segregation and discriminatory access to education, particularly for disadvantaged and marginalized children, including children living in rural areas;

(d) The high percentage of children with disabilities who are not fully included in the education system (arts. 13 and 14).

56. **Recalling that the State has the primary responsibility in ensuring the right to education, the Committee recommends that the State party take all the measures necessary to:**

(a) **Strengthen its public education sector, including by increasing the budget allocated to primary and secondary education with a view to improving access to, and the quality of, primary and secondary education for all, without hidden costs, particularly for children of low-income families and children living in rural areas;**

(b) **Ensure that all schools, including low-cost private schools, are registered and monitor their compliance with the Implementing Rules and Regulations of the Enhanced Basic Education Act of 2013 and other relevant guidelines;**

(c) **Review the Education Service Contracting scheme to address its adverse impacts on the right to education of disadvantaged and marginalized children and their parents;**

(d) **Improve access to inclusive education for children with disabilities.**

#### **Internet access**

57. While noting that over 40 per cent of the population has access to the Internet, the Committee expresses its concern that such access is limited among disadvantaged and marginalized individuals and groups and in rural areas (art. 15).

58. **The Committee recommends that the State party continue working to narrow the digital divide by expanding Internet access, in particular for disadvantaged and marginalized individuals and groups.**

### **D. Other recommendations**

59. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

60. The Committee recommends that the State party consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.

61. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Sustainable Development Agenda at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.

62. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, *inter alia*, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner on Human Rights (see HRI/MC/2008/3).

63. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national, municipal and territorial levels, particularly among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

64. The Committee requests the State party to submit its seventh periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (see E/C.12/2008/2), by 31 October 2021. In addition, it invites the State party to update its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. I).